

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO. 886 OF 1999
IN
WRIT PETITION NO.1446 OF 1996

Narielwadi Zopadpatti Welfare Society,
a society registered under the Bombay
Public Trust Act, 1950 and under
Societies Registration Act under No.
Bom.30/86 and having its Registered
Office at Narielwadi, Reay Road,
Bombay 400 010.

Appellants
(original Petitioners)

vs.

1. The Municipal Corporation of
Greater Bombay, a corporation
constituted under the Bombay
Municipal Corporation Act, 1888,
2. The Joint Municipal Commissioner,
Municipal Corporation of Greater
Bombay,
Nos.1 and 2 having their offices
at Mahapalika Marg, Fort, Bombay-400 001.
3. The Ward Officer, E Ward, Municipal
Corporation of Greater Bombay,
having his office at Byculla, Bombay.
4. The Deputy City Engineer, Slum
Improvement having his office on
2nd Floor, Chhatrapati Shivaji
Maharaj Market Building, Palton
Road, Bombay 400 001.
5. Shri Abdul Rahim Khan, acting as
the Chief Promoter of Asiana
Cooperative Housing Society
(Proposed) having his office at
Victoria Road, Reay Road,
Bombay 400 010.

Respondents
(original respondents)

Mr. S. Shetty with Mr.Saikumar Pathrudi for the
appellants.

Mr.Vinod Mahadik for the respondents 1 to 4.

Mr.S.G.Surana for the respondent no.5.

**CORAM : R. M. LODHA &
J.P. DEVADHAR, JJ.**

DATED : 4th November 2004

ORAL JUDGMENT (Per R.M. Lodha, J.):

Heard.

2. There is interse dispute between the appellants and the respondent no.5 for redevelopment of the Zopadpatti area of Narielwadi at Reay Road in the city of Mumbai. The respondent no.5 has been granted permission to redevelop the said area under the relevant Development Rules as they were found to have consent of at least 70% hutment dwellers (censused as well as vacant land tenure holders). During the course of hearing the learned counsel appearing for the appellants and the respondent no.5 agreed that the aspect as to which of the party has consent of at least 70% of the hutment dwellers (censused as well as vacant land tenure holders) may be referred for verification to the Slum Rehabilitation Authority and whosoever is found to have consent of 70% or more of the eligible hutment dwellers must be given permission to redevelop the property.

3. In the light of the aforesaid submission made by the learned counsel for the appellants and the respondent no.5, we are satisfied that the appeal may be disposed

of by the following order:

- (i) The Slum Rehabilitation Authority shall scrutinise and verify which of the party viz. the appellants or the respondent no.5 has consent of 70% or more of the eligible hutment dwellers for development of the subject slum. The party who is found by the Slum Rehabilitation Authority to have the consent of 70% or more of the eligible hutment dwellers (censused as well as vacant land tenure holders) shall be entitled to redevelop the subject slum in accordance with the Development Control Regulations and the relevant law.
- (ii) The Slum Rehabilitation Authority on scrutiny and verification shall pass the reasoned order after hearing the parties.
- (iii) The order passed by the learned Single Judge is modified in the aforesaid terms.

No costs.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)